

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RITE-HITE HOLDING CORPORATION
and RITE-HITE PRODUCTS
CORPORATION,

v.

SYSTEMS LLC,

Plaintiffs,
Defendant.

Case No. 18-CV-869-JPS

ORDER

On June 7, 2018, the plaintiffs filed a complaint against the defendant alleging a claim for patent infringement, and on July 17, 2018, they filed an amended complaint. (Docket #1 and #13). On August 6, 2018, the defendant filed an answer to the first amended complaint and two counterclaims against the plaintiffs. (Docket #17). The plaintiffs moved to dismiss the defendant's counterclaims pursuant to Federal Rule of Civil Procedure 12(b)(6). (Docket #19). In lieu of responding to the motion, the defendant filed an amended answer and counterclaims. (Docket #22); *see also* (Docket #24). The plaintiffs have since answered the defendant's amended counterclaims. (Docket #25).

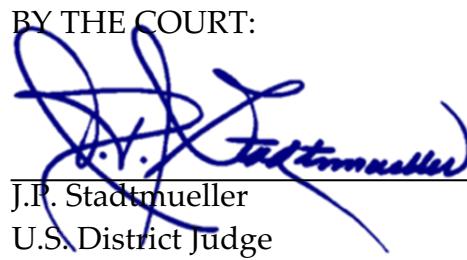
When an amended pleading is filed, it becomes the controlling pleading and the prior pleading is withdrawn. *Johnson v. Dossey*, 515 F.3d 778, 780 (7th Cir. 2008). Thus, the defendant's amended answer and counterclaims has become the defendant's active pleading, and the plaintiffs' motion to dismiss the defendant's original counterclaims will be denied as moot.

Accordingly,

IT IS ORDERED that the plaintiffs' motion to dismiss the defendant's counterclaims (Docket #19) be and the same is hereby **DENIED as moot and without prejudice.**

Dated at Milwaukee, Wisconsin, this 17th day of October, 2018.

BY THE COURT:



J.R. Stadtmueller
U.S. District Judge